

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01235
Petitioners: David E. & Margaret A. Demy
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0131-0024
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 29, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$132,000, and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004
3. The Board issued a notice of hearing to the parties dated September 30, 2004.
4. A hearing was held on November 5, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at: 4743 Baring Avenue, East Chicago, North Township.
6. The subject property is a three-unit residential structure on 0.122 acres of land.
7. The Special Master did not conduct an on-site visit of the property
 - a) Assessed Value of subject property as determined by the DLGF:
Land \$11,100 Improvements \$120,900 Total \$132,000
 - b) Assessed Value requested by Petitioners:

Total \$85,000
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: David E. Demy, Owner

For Respondent: Stephen H. Yohler, Hearing Officer

Issues

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The Petitioners bought the subject property for \$93,000 on April 30, 1998. *Demy testimony; Pet'r Ex. 4, 5.* The property was on the market for 17 days, and the Petitioners had no relationship to the seller. *Demy testimony.*
- b) An analysis of other properties that have sold in the area of the subject shows an average 1999 sale price of \$73,778. *Demy testimony; Pet'r Ex. 6.* The "most comparable" of those properties sold for \$85,900. *Demy testimony; Pet'r Ex. 8.* That property contains a two-story brick building, like the subject, and its lot is approximately the same size as the subject land. *Demy testimony.* The comparable property has six units and six baths, while the subject has four units and four baths. *Id.*
- c) Properties in the subject's area have not shown an increase in value. *Demy testimony.*

11. Summary of Respondent's contentions related to the assessment:

- a) The best evidence of the subject's value is the 1998 purchase. *Yohler testimony.*
- b) After the purchase price is time adjusted to January 1, 1999, the recommended assessed value is \$95,800. *Id.*

Record

12. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled Lake Co - 562.
- c) Exhibits:

Petitioners Exhibit 1:	Form 139L Petition
Petitioners Exhibit 2:	Notice of Final Assessment
Petitioners Exhibit 3:	Lake County Assessor's Improvement Data & Computation Sheet

Petitioners Exhibit 4:	Settlement Statement Showing Purchase Price
Petitioners Exhibit 5:	GNIAR MLS Data for Sale of 4743 Baring Ave.
Petitioners Exhibit 6:	Comparative Market Analysis Summary
Petitioners Exhibit 7:	Multi-Unit Summary Report of Comparative Properties and Photos
Petitioners Exhibit 8:	Agent Detail Report of Like Properties
Respondent Exhibit 1:	Form 139L Petition
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Subject Property Photo
Respondent Exhibit 4:	Comparable Sales Sheet
Respondent Exhibit 5:	Comparable Property Record Cards & Photos
Board Exhibit A:	Form 139 L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Sign-In Sheet

d) These Findings and Conclusions.

Analysis

13. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also*, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E. 2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board....through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

14. The Petitioners did provide sufficient evidence to support their contentions. The Respondent did not rebut the Petitioners’ evidence. This conclusion was arrived at because:

- a) The Petitioners contend that the assessment is too high in comparison to the \$93,000 that they paid for the subject property in April 1998.
- b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
- c) As the Respondent correctly stated, the best evidence of the value of the subject property is the April 1998 purchase price of \$93,000. The Respondent then calculated a value of \$95,800 as of January 1, 1999, based on the April 1998 purchase price. Although the Respondent’s representative submitted a specific value as of January 1, 1999, he did not explain the method by which he arrived at that number. Given the proximity of the sale to the January 1, 1999, valuation date, the Board finds that the purchase amount is the best evidence of the property’s market value as of January 1, 1999.
- d) For the reasons set forth above, the Board determines that the total assessed value of the subject property should be lowered from \$132,000 to \$93,000.

Conclusions

- 15. The Petitioners made a prima facie case. The Respondent did not rebut the Petitioners’ evidence. The Board finds that the assessment should be changed to \$93,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$93,000.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.